

US EPA ARCHIVE DOCUMENT

## ***Appendix 1 - Guidance for Implementing Public Involvement at EPA***

This guidance is provided to assist EPA staff and managers in implementing the seven basic steps for effective public involvement outlined in the Agency's 2003 Public Involvement Policy.

### **1. *Plan and budget for public involvement activities.***

Goal: To facilitate effective public involvement processes through advance planning, early notice to stakeholders, adequate time and resources, and evaluation.

a. Actions: When preparing budget and planning documents for regulatory and non-regulatory programs, Agency officials should make provision for: resources and staff time dedicated to public involvement activities; time for conducting and evaluating public involvement activities; and staff and resources to provide technical assistance to the involved public where appropriate (see the Policy's Step 3, "Consider providing technical or financial assistance to the public"). These activities may be included in planning documents such as regulatory development plans, analytic blueprints, program plans or EPA's plans for complying with the Government Performance and Results Act. Resources for public involvement should be included in budget documents separate from and in addition to funds required to comply with statutes and executive orders that require public involvement, such as the Unfunded Mandates Reform Act, the Regulatory Flexibility Act, Executive Order 13132 (Federalism), and Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). In addition, any planned activities should comply with the Paperwork Reduction Act and the Federal Advisory Committee Act. EPA staff should consult with the Office of General Counsel or the Office of Regional Counsel for information on these statutes.

Agency officials should include the following in such planning documents, as appropriate:

1. Key decisions subject to public involvement, along with their significant intermediate decision making points (for example, identifying issues, developing options, assessing impacts, evaluating and choosing options)
2. Staff and budget resources to be allocated to public involvement
3. Objectives of public involvement in the project or decision, and the appropriate level of public involvement (For example, does the issue warrant information dissemination, interactive consultation or more collaborative approaches?)
4. Segments of the public targeted for involvement and plans for identifying organizations and individuals, [Note: Where the plans involve the collection of information from more than nine non-federal parties, they may be subject to the Paperwork Reduction Act , which ensures that federal agencies' efforts to collect information do not unnecessarily burden the public. For advice on whether the PRA applies, staff should consult with the OGC.]
5. Opportunities that help participants gain an adequate understanding of relevant scientific, financial and technical information relevant to the decision
6. Proposed schedule for public involvement activities that is consistent with the timing of the decision process
7. Mechanisms to apply the seven basic steps -- Planning and Budgeting, Identification, Providing Assistance, Information and Outreach, Public Consultation and Involvement, Review and Feedback, and Evaluation -- set out above -- consistent with the proposed schedule
8. Measures or methods to evaluate the effectiveness of public involvement

When identified in an approved grant work plan, grant funds may be used, subject to any statutory or regulatory limitations, to support reasonable costs of public involvement incurred by assisted agencies or organizations, including advisory group expenses.

## **2. *Identify the interested and affected public.***

Goal: To identify groups or members of the public who may have expressed an interest in or who by the nature of their location, purposes or activities, may be affected by or have an interest in an upcoming EPA activity or action.

a. Actions: For each program, activity or project EPA should develop a contact list, and add to the list those members of the public who request they be added. EPA should update each list frequently and strive to ensure lists include the full range of interested and affected parties. Lists will be most useful if subdivided by category of interest or geographic area. The nature and intensity of the involvement activities will drive the frequency of updating. EPA should use the contact lists to send announcements of involvement opportunities: notices of meetings, hearings, field trips, and other events; notices of available information, reports and documents; and to identify members of the public who may be considered for advisory group membership and other activities.

b. Methods: Construction of these lists of contacts may be accomplished by any number of activities, including, but not limited to the following:

- Participating in workshops, community meetings, public events, etc. to share information with potentially interested groups and individuals, and enable them to request additional information on the particular program, activity or project
- Providing a mailing list sign-up sheet at workshops, community meetings, public events, etc. (The sign-up sheet should include a prominent notice at the top of each page informing those who sign it of how the list will be used. Potential signers should be asked to specify whether they agree to allow the Agency to use their name and address for mailings regarding only a specific topic or for a wider variety of Agency issues.)
- Sharing mailing lists between different EPA program and regional offices if the individuals on the lists have provided the Agency permission to use their names and addresses for mailings on a wide range of EPA-related topics
- Encouraging external organizations and agencies to publicize EPA activities
- Using questionnaires or surveys to find out levels of awareness and the need for tailored public education and outreach [Note: see section 1 above regarding the Paperwork Reduction Act]
- Including an EPA point of contact on EPA documents (fact sheets, public notices, sign-up sheets at meetings, etc.) so that individuals may ask to be placed on lists
- Soliciting interest through notices in the Federal Register; trade and trade association publications; local print, radio, cable and television outlets; not-for-profit secular and religious publications; or through the Internet or other electronic means
- Asking those who attend events what, if any, interests are missing
- Using other comprehensive or creative means that consider the community structure, languages spoken, local communications preferences and the locations (such as libraries, churches, schools and other centers) where the community regularly congregates

EPA acknowledges that efforts to assemble mailing lists can raise privacy concerns. The Agency is committed to protecting the privacy of individuals. Thus, it is Agency policy not ask individuals for their names and addresses for the creation of new mailing lists without explicit

permission from those individuals or to use names and addresses collected for disseminating information about one specific topic for any unrelated purpose unless the individuals on the mailing list grant permission to do so.

EPA mailing lists should be organized by subject matter, program or other topic. EPA should not combine mailing lists to create profiles of specific individuals.

**3. Consider providing technical or financial assistance to the public to facilitate involvement.**

Goals:

- To improve public involvement opportunities through providing technical or financial assistance, when available and appropriate, to stakeholders, small local governments and members of the public.
- To use such assistance to help build capacity to understand complex technical issues and enable people to participate substantively in EPA's decision-making processes.

a. Actions: EPA recognizes that many of its actions involve highly technical, complex issues. An understanding of the underlying science is a basic requirement for meaningful public involvement in the Agency's decision-making processes, but can require substantial commitments of time for study, research, analysis and discussion on the part of the public. It is important for EPA to provide a sound understanding of the issues and options it is considering; EPA staff efforts and access to EPA materials often are sufficient. It is also important for the Agency to identify those situations where rectly participate or obtain expertise to engage in meaningful involvement. In such situations EPA may have the authority to take special measures such as providing technical or financial assistance to facilitate effective participation.

When such assistance is needed and available, EPA should announce its availability as early in the process as possible, and clearly describe the process and timing for accessing it.

b. Methods: There are numerous ways to assist members of the public and small local governments who lack the ability to participate in an effective or timely manner in Agency public consultation or involvement activities. The Agency can provide assistance through services that the interested public can use. Knowledgeable staff can help to determine which methods are most appropriate to the situation and meet applicable legal requirements. Methods may include:

- Access to Agency experts or contractors to obtain information and analyses as resources allow
- Access to technical personnel through grants to universities (for example, the Superfund Program's Technical Outreach Services to Communities project has provided independent university-based scientific and engineering expertise to 115 communities dealing with hazardous substance contamination questions)
- Technical Assistance Grants (TAGs) under Section 117 of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) awarded to groups of individuals who may be affected by a release or a threatened release at Superfund sites to obtain assistance in interpreting and disseminating data and information related to site activities
- Task-specific technical assistance to help stakeholders address issues either in project negotiation or implementation phases of regulatory flexibility projects
- Collection and dissemination of information on outside sources of funding or technical

- assistance
- Collaboration with non-governmental organizations and other information brokers
- Provision of surplussed computer equipment to parties who need access to the Internet, following Agency requirements for this activity (under EPA's policy in response to Executive Order 12999 - Educational Technology Ensuring Opportunity for all Children in the Next Century that directs special attention be given to schools and nonprofit organizations, including community based educational organizations located in minority, low-income and underserved communities)

In some limited circumstances, direct financial assistance may be available for EPA partners, outside organizations and stakeholders. For example, depending on annual budget authorizations, and when EPA managers deem appropriate and essential for achieving program goals, EPA may sometimes have authority to provide funds to small local governments, outside organizations and stakeholders for public involvement activities associated with rules under development. In addition EPA should, in limited situations, consider providing financial support to stakeholders such as:

- Travel and per diem for stakeholders to provide information and advice directly to Agency officials
- Compensation for meeting time spent as a member of a Federal Advisory Committee

However, funds for such purposes are generally very limited. When EPA does provide funding, the primary purpose must be consistent with the Federal Grant and Cooperative Agreement Act, and one or more of EPA's statutes must provide appropriate authority for the funded activities.

c. Considerations for funding public involvement: Applicable statutes and regulations generally specify criteria for providing financial assistance. Agency staff should also consider:

- Whether the proposed activity is allowable under applicable statutory authority
- The adequacy of the representation of involved interests
- The adequacy of the applicant's resources in relation to ability to participate
- The applicant's qualifications to accomplish the work
- The involvement of those with a direct stake in the local community in the activity
- The ability of the activity to further public involvement objectives and to benefit the public

In general, the Agency should make special efforts to provide assistance to groups that may have fewer opportunities or insufficient resources to participate.

#### **4. *Provide information and outreach to the public.***

Goals:

- To provide the public with access to accurate, understandable, pertinent and timely information to facilitate effective involvement in Agency decision-making processes
- To assist the public in understanding the reasons for Agency action, the legal framework for decision making and the significance of the related technical data so that the public can provide meaningful comments.

a. Actions: Whenever possible, Agency officials should:

- Provide the public with adequate and timely information concerning a forthcoming action or decision
- Provide policy, program, and technical information to the affected public and interested



- parties at the earliest practicable times, to enable those potentially affected or interested persons to make informed and constructive contributions to decision making
- Provide information at places easily accessible to interested and affected persons and organizations
  - To the extent practicable, provide the public with integrated, on-line, user-friendly access to health and environmental data and information and to the extent practicable, enable communities, including minority, low-income and underserved populations, to have access to relevant data and information
  - To the extent practicable, develop information and educational programs so that all levels of government and the public have an opportunity to become familiar with the issues, technical data and relevant science behind the issues
  - Provide informational materials that clearly identify the role of the public in the specific decisions to be made
  - Summarize complex technical materials for the public
  - Write information and outreach documents in plain language that the public will easily understand
  - Write engineering and technical documents as clearly and concisely as possible
  - Consider whether EPA should provide documents in languages in addition to English in order to reach the affected public or interested parties, consistent with Executive Order 13166 on "Improving Access to Services for Persons with Limited English Proficiency," signed August 11, 2000
  - To the extent possible, maintain ongoing communication and outreach with the interested and involved public on particular EPA activities through periodic newsletters, list serves or other means
  - Use EPA's existing public involvement manuals, which contain helpful advice for involving the public in specific EPA programs. (See these manuals at <http://www.epa.gov/publicinvolvement/involvework.htm#manuals>.)

b. Methods: Information and outreach programs require the use of appropriate communication tools, and should be tailored to accommodate the public's level of familiarity with the subject and means of access.

The following, among many other approaches, may be used for this purpose:

- Publications, fact sheets, technical summaries, bibliographies, resource guides, relevant supporting documents and other printed and electronic materials. (These materials may be made available through the mail, on the EPA web site, and at information repositories such as EPA regional and field offices, federal depository libraries and local public libraries, and state/tribal/local agencies.)
- Videos and CD ROMs
- Questionnaires, surveys, and interviews, subject to the Paperwork Reduction Act [Note: see Step 1 above]
- Public service announcements, articles and news releases through local newspapers, radio, and other media sources that reach the interested and affected public
- Educational publications, programs or activities
- Electronic communications such as Web pages, chat rooms, on-line dialogues, and list serves (Agency officials wishing to use web pages, on-line dialogues, and chat rooms should obtain approval from EPA management and consult with their information security officer.)
- Participation in conferences, workshops, meetings, community dialogues or local study groups

- Telephone communications such as hotlines, clearinghouses and toll-free comment lines
- Video conferences and satellite downlinks
- Participation at public events, such as fairs and festivals
- Tours of relevant sites and facilities

c. Content. Examples of outreach materials may include but are not limited to:

- Background information (for example, statutory basis, rationale, specific goal(s) of involvement activities or the triggering event of the action)
- A timetable of proposed actions
- Summaries of lengthy documents or technical material, if relevant
- A delineation of issues and the interests that they may affect
- Alternative courses of action or tentative determinations that the Agency may have made
- Information on whether an Environmental Impact Statement or Environmental Assessment is or will be, available
- Specific encouragement to stimulate active involvement by the public, including describing the nature of its influence, roles, and potential impact on the decisions
- The name and contact information (address, e-mail address, telephone and telefax numbers) to reach EPA staff for further information
- Information on the social, economic, and environmental consequences of proposed decisions and alternatives that has been prepared in connection with the proposed decision
- Technical evidence and research methodology explained in non-technical language
- If available, a list of sources of technical assistance, advice and self-help manuals or other publications that could be helpful to the public

Fact sheets, news releases, summaries, and similar publications in print and on the Internet may be used to provide notice of availability of materials and to facilitate public understanding of more complex documents, but should not be a substitute for public access to the complete documents. When practicable, EPA should provide information in formats and locations that match the public's needs. Some documents (e.g., confidential business information) are not available for public review. Before releasing privileged documents or for advice on whether a particular document is privileged, staff and managers should consult with the ORC or OGC.

d. Notification. Responsible officials should make parties on the contact list and the media aware of the outreach materials available. The public should have adequate time and opportunity to receive and review the information before any additional public involvement activities are conducted. Notices should include information about the repository (address, hours of operation, etc.) or other information relating to access to all documents referred to in the notice, including the name of a contact person when appropriate.

e. Timing. To enable effective and meaningful public involvement, EPA should distribute outreach materials that make the public aware of the planned activity and that outline the issue(s) as early as such information is available. The more complex the issue and greater the potential for controversy or misunderstanding, the earlier the materials should be distributed. When there is a formal public comment process, EPA should, whenever possible, notify stakeholders of the expected timing of that process to enable stakeholders to plan for participation and provide the most useful response. Furthermore, the comment period should not open until materials are available for the public to obtain and review. The Agency often makes EPA's materials available to the public by placing them in a public docket. Dockets are

discussed in more detail below under “g. Repositories or dockets.”

Minimum public comment periods are often specified in statutes or rules. Generally, materials for public comment should be provided as soon as they are available and should allow for at least 30 days for the public review and comment (or longer, as specified in program-specific requirements) or 45 days notice for public hearings.

Unless the applicable statute or regulation provides otherwise, the comment period for public review of unusually complex issues or lengthy documents generally should be no less than 60 days.

f. Fees for Copying: In responding to a request for records, the Agency will follow its regulations implementing the Freedom of Information Act ("FOIA") at 40 CFR Part 2. The Agency may waive the fees associated with a FOIA request, pursuant to the criteria listed at 40 CFR 2.107(l), if disclosure would contribute to public understanding of government operations and is not primarily in the commercial interest of the requester.

g. Repositories or Dockets: The Agency should provide one or more central collections of documents, reports, studies, plans, etc. relating to controversial issues or significant decisions in a location or locations convenient to the public. Suitable locations will depend on the nature of the action. For national rules a single central docket is generally appropriate, but local repositories may be preferable when decisions relate to individual facilities or sites. RCRA regulations authorize EPA to require hazardous waste treatment, storage or disposal facilities to set up and maintain a repository of information related to the RCRA site. 40 CFR §124.33 In all other instances, for actions at local facilities or sites, Agency officials should work with community representatives and the facility to determine the most accessible repository site(s) within the community. When choosing the site for a document repository, Agency officials should consider accessibility, travel time, parking, transit, and availability during off-work hours. Copying facilities should be available at repositories. Agency officials are encouraged to determine the accessibility to the interested public and feasibility of electronic repositories that take advantage of the Internet to reach directly into homes, libraries and other facilities throughout a community and across the nation. If the public has reasonably convenient, well-advertised electronic repositories, this can achieve significantly enhanced accessibility at a very modest cost.

At EPA, dockets serve as the repository for the collection of documents or information related to a particular agency action or activity. The docket generally consists of the documents specifically referenced in the related Federal Register document, any public comments received, and other information used by decision-makers or otherwise related to the Agency action or activity. Agencies most commonly use dockets for regulatory actions, but dockets may also be used for various other non-rulemaking activities, such as Federal Register documents seeking public comments on draft guidance, policy statements, information collection requests under the Paperwork Reduction Act, and other non-rule activities.

EPA's EDOCKET is an online public docket and comment system designed to expand public access to documents in EPA's major dockets, eventually including the other EPA dockets. EDOCKET allows the public to search available dockets online, submit or view public comments, access the index listing of the contents of the docket, and to access, download and print those documents in the docket that are available electronically.



In August of 2002, EPA consolidated several of the Headquarters paper docket facilities into a combined facility, the EPA Docket Center. Through this Docket Center, EPA has improved the docket's internal workflow processes and has enhanced customer service and public access to information. A central facility for most EPA Headquarters dockets also offers the public both convenience and efficiency, enabling citizens to access multiple program dockets and conduct cross-docket searches from one location. The EPA Docket Center features a Public Reading Room with the following services: computers for the public to access EDOCKET, scanners, copiers, telephone lines and faxes. For more information about the EPA Docket Center or EPA's EDOCKET, go to <http://www.epa.gov/epahome/dockets.htm>.

## **5. Conduct public consultation and involvement activities.**

Goals:

- To understand the interests and needs of the affected public.
- To provide for the exchange of information and views and open exploration of issues, alternatives and consequences between interested and affected members of the public and officials responsible for the forthcoming action or decision.

a. Actions: Agency officials should:

- Identify and select public consultation or involvement processes appropriate for the scope of the decision and the time and resources available. When possible, consult or involve the affected public to ensure that the approaches selected consider and, if appropriate, accommodate the potentially affected parties' needs, preferences, schedules and resources, as well as the Agency's needs.
- Notify the public of potential consultation and involvement activities early enough to ensure that the public has adequate time to obtain and evaluate information; consult experts, and formulate and express their opinions, options, and suggestions prior to Agency action
- For site-specific activities, start public involvement efforts early in the action and continue them, as appropriate, until all work is completed
- Conduct public consultation and involvement activities at times and places that, to the maximum extent feasible, facilitate attendance or involvement by the affected public. Whenever possible, consider whether public meetings concerning local facilities or sites should be held during non-work hours, such as evenings or weekends, and at locations accessible via public transportation.
- Provide guidance, resources, training, and professional assistance to Agency staff and interested delegated program partners, when feasible, to assist them in conducting or participating in public consultation and involvement activities in an effective and credible manner. This includes providing the technical, scientific, and background information in a manner that allows the involved public to understand the relevant science for the issues under discussion
- Consider the appropriate use of third parties (neutral facilitators or mediators) in the development and implementation of programs, projects and activities
- Be knowledgeable of and comply with provisions of open meetings laws and regulations, such as the Federal Advisory Committee Act, as well as all information gathering requirements, such as the Paperwork Reduction Act
- Be knowledgeable of and comply with provisions of the Rehabilitation Act regarding appropriate accommodations for individuals who need special assistance in attending public hearings, meetings or other events

b. Methods: Consultation and involvement processes may take a variety of forms, depending on the issues to be addressed, the timing of the decision-making action, and the needs and resources of the interested and affected public. In all cases EPA should work to maximize the use of existing institutional resources as vehicles for consultation and involvement processes. The more than twenty EPA Federal Advisory Committees are such an institutional resource. EPA established each of them to provide advice on a different aspect of environmental policy or management. These committees are part of the Executive Branch decision-making process and include members who are scientists, public health officials, businessmen, private citizens, and officials at all levels of government. Approximately 1,400 citizens sit on FACA committees, bringing a variety of perspectives and expertise to the environmental consensus building process.

EPA staff can use a wide variety of public involvement methods. Step 4, "Provide information and outreach to the public," addresses predominantly one-way communications from EPA to the public. More direct involvement activities range from information exchange, in which EPA and the public share views, to more collaborative methods that result in stakeholder-defined recommendations or agreements. When initiating public involvement for a particular decision, EPA staff should consider using a variety of methods within these broad categories as well as using a combination of outreach, information exchange and collaborative processes to more effectively involve the public in the decision-making process. Using a collaborative recommendation or agreement process or reaching consensus with the involved public is not required, necessary or practical in all decision-making processes.

General descriptions of public involvement methods follow, including their purposes, common examples, and key actions. The following list of public involvement methods is not exhaustive. Its variety demonstrates the need for program officials to be flexible and to obtain information that enables them to choose the appropriate techniques for each situation. EPA staff also should review the Agency's detailed public involvement manuals and guides when planning public involvement activities. (See Addendum 1 for a list of key resources.)

#### 1. Information exchange activities

##### Purposes:

- To enable the public and the Agency to share data, ideas, advice and concerns
- To allow EPA to obtain input from a wide range of interested and affected parties
- To compile a knowledge base of the public's various interests, ideas and needs, allowing the Agency to better understand and consider the issues related to a particular decision

##### Common examples:

- Communication directed from the public to the Agency, as in public comment processes, public meetings or public hearings
- Interactive methods that provide participants with opportunities to discuss the issues and their input with the Agency through public meetings, listening sessions, workshops, availability sessions, open houses, interviews, focus groups or surveys, Internet-based dialogues and other methods (Note: Some of these types of exchange activities, including surveys and Internet dialogues, potentially are subject to provisions of the Paperwork Reduction Act and security and privacy constraints)
- Public hearings and public meetings  
Public hearing and meetings provide an opportunity for formal or informal public involvement. EPA's statutes and/or regulations often require EPA to hold public hearings or meetings. EPA also may provide such opportunities on a voluntary basis. Unless other procedures are set out in the relevant statute or regulations, public meetings and

hearings should follow the procedures set out in 40 CFR Part 25. The Agency should conduct public meetings and hearings objectively and should carefully consider the needs of the affected community and individual participants when planning these events. Though certain formalities should apply to all public hearings and meetings, procedures should not be so prescriptive as to discourage participation. When the subject of a public hearing, meeting or other information exchange process relates to conditions or facilities in a specific geographic area, EPA should hold the public hearing or meeting in that general geographic area. Public meetings and hearings should be part of an overall process that also gives the public more opportunities for becoming informed and involved.

## 2. Recommendation Processes

### Purposes:

- To develop recommendations for EPA, generally through the collaboration of members of EPA-established advisory committees, but also through other means, including receiving recommendations from individuals
- To provide input into EPA's decision-making processes, especially when decisions are complex and/or have far-reaching effects
- To identify and analyze various options, recommend creative solutions and find common ground among competing points of view
- In addition to soliciting input from the general public, to obtain input from specific stakeholder groups who can provide valuable technical expertise, information or viewpoints that EPA should consider in order to create a sound decision

### Common examples:

- Committees established by EPA under the Federal Advisory Committee Act (FACA)
- External technical committees (such as those conducted by the American Society for Testing and Materials), and various technical advisory groups, citizens advisory groups or panels that EPA does not establish, manage or control that may provide recommendations to the Agency

### Actions:

- The Agency may adopt the recommendations of a FACA committee, but is not bound to implement the committee's recommendations (See Appendix 4 for FACA requirements)
- As FACA requires, advisory committees must be balanced in the points of view represented for the function the committee is to provide
- EPA should include the affected community when appropriate

## 3. Agreement processes

### Purposes:

- To reach a mutually acceptable decision between EPA and selected stakeholder representatives, in a written agreement. In some cases, such agreements are not legally enforceable, but do represent a good faith commitment by EPA and the other parties.
- To develop creative and flexible solutions for particularly difficult or controversial issues through a process that includes direct participation by interested parties
- To reduce the time needed to reach a final decision, build support among various constituencies, facilitate early implementation, and reduce the threat of litigation

### Common examples:

- Negotiated rulemaking committees
- Other negotiated or mediated agreements and Memoranda of Understanding

### Actions:

- EPA should seek to ensure that the selected participants have the relevant knowledge and resources to engage in agreement processes and provide a balanced and wide range of views
- EPA should ensure that negotiated rulemaking committees meet all FACA requirements

Facilitation and Alternative Dispute Resolution (ADR) are tools that the Agency may use to convene and conduct activities or to seek to resolve differences among various stakeholders during information exchange and collaborative processes. For ADR, EPA obtains the services of neutral, trained facilitators and mediators who manage discussions between the Agency and a set of well defined stakeholders. ADR is most effective when there are a few highly involved and informed stakeholder groups who agree to participate in a dialogue through which they raise their concerns and seek to resolve a particular issue by consensus. Facilitation and ADR processes can be used to encourage conflict prevention or resolution at any time during a decision-making process.

c. Content: Agency officials should clearly identify the issues for discussion, negotiation or decision prior to and during a public involvement process, so that participants understand on which issues they should comment. EPA officials should describe clearly the type of public involvement process planned, the schedule, EPA's expectations for the outcomes of the process and the timing and type of feedback that EPA will provide. If possible, the public should be involved in determining the design of the processes.

d. Notification: As early in the decision-making process as possible, the Agency should notify all parties on the appropriate contact lists and, when appropriate, the news media, of opportunities to participate and provide them with relevant information. In addition to legal notices and/or Federal Register Notices, Agency officials should use other outreach methods (as described in Step 3) to publicize public involvement opportunities. Notices should, at a minimum, give the time, date and location of the public involvement process, a general description of the topics or agenda, a contact person and contact information, and a general description of the nature of the process to be conducted, as well as the role of the public. Agency officials should consider the use of multilingual notices of upcoming activities and/or translator services, when appropriate.

e. Timing: Agency officials should provide early advance notice of public involvement processes so that the public can obtain background information, formulate their needs and interests and obtain expert assistance, if necessary. Minimum time frames for notification of public hearings and public meetings will vary according to the applicable regulations and the complexity of the issue. For example, for actions subject to the public participation requirements of 40 CFR Part 25, the regulations require EPA to provide at least 45 days' notice before public hearings, but that time may be reduced to 30 days if there are no substantial documents to be reviewed and no complex or controversial matters to be addressed at the hearing. 40 CFR § 25.5 If the issues are unusually complex or involve review of lengthy documents, this period generally should be at least 60 days. EPA may further reduce or waive the hearing notice requirement in an emergency situation in which EPA determines that there is an imminent danger to public health. 40 CFR § 25.5

Regulations governing some other programs not covered by Part 25 have similar requirements. In programs that do not have a regulatory requirement to provide a hearing or meeting upon request, EPA staff should nonetheless consider such requests unless circumstances clearly necessitate urgent action.

When the Agency holds a formal public comment process, EPA officials should make the relevant materials available and accessible to the public at the beginning of the comment period. Minimum public comment periods often are specified in statutes or rules; however, generally EPA should allow at least 30 days for the public review and comment period (or longer, as specified in program-specific requirements or for complex issues or lengthy documents). Program-specific notice requirements should be followed. For example, CERCLA requires that, regardless of complexity, EPA allow the public 30 days to submit comments on proposed remedies and, upon a timely request, that EPA extend the public comment period by a minimum of at least 30 days. 40 CFR § 300.430

f. Summaries: The Federal Advisory Committee Act requires EPA to keep detailed minutes of advisory committee meetings. [Appendix 4 summarizes basic information on the management of EPA advisory committees.] In addition, some statutes also require minutes of public meetings. Even when not required, Agency officials generally should make summaries of public hearings and public meetings available to participants and other interested parties. When appropriate and practicable, Agency officials should consider including additions or corrections that participants submit to the summary. In rulemaking proceedings, EPA should place in the docket a summary of significant new factual information concerning a proposed rule received during informal meetings or conversations with outside parties. In non-rulemaking situations, it may be helpful to document discussions that contribute information useful to decision making and make that information available to participants and interested parties.

**6. *Review and use input, and provide feedback to the public.***

Goal: To consistently earn and retain the public's trust and credibility for EPA's actions and consultation processes by evaluating and assimilating public viewpoints and preferences into final decisions, where appropriate and possible, and by communicating to the public the decisions made and how public input affected those decisions.

Gathering and using public viewpoints and preferences involves examining and analyzing public input in relation to scientific and other information relevant to the decision, considering if and how to incorporate that input into final program decisions, and carefully considering public views when making or modifying decisions. For each decision, EPA officials should attempt to find a balance that enables the Agency to consider both relevant scientific and other information and expressed public values in determining how best to protect the public's health and the environment. The Agency should demonstrate, in its decisions and actions, that it has understood and fully considered public concerns. Finally, the Agency should communicate the decision to the public and discuss how the public's input influenced the final decision.

a. Actions:

1) Review and use the information: Agency officials should briefly and clearly document consideration of the public's views in responsiveness summaries, regulatory preambles, environmental impact statements or other appropriate documents. This should occur at key decision points. Unless inappropriate or otherwise required by law or regulations, each responsiveness summary (or similar document) should:

- Describe briefly the action that EPA initially proposed and why EPA determined such an action was needed
- Include a statement of the action that EPA took
- Explain briefly the type of public involvement activity that EPA conducted
- Identify generally those who participated and their affiliation (either individually or as groups)



- Describe the matters on which EPA consulted with the public
- Summarize the public's views, important comments, criticisms and suggestions
- Explain the Agency's reason for the decision
- Indicate the effect the public's comments had on that action
- When feasible, provide the Agency's specific responses to each comment or group of comments; otherwise, discuss specific responses to significant issues raised in the comments. These responses should discuss how the comments resulted in modification of the proposed action or explain why the Agency did not accept proposals that the public made

(2) Provide feedback to the public: The Agency should provide feedback to participants and interested parties concerning the outcome of the public's involvement. Some statutes and regulations contain requirements for responding to comments EPA receives on actions such as rules, permits and cleanup plans.

Although the public can typically submit comments to EPA electronically, by mail, by facsimile or through hand delivery/courier, use of EPA's electronic public docket and comment system, EDOCKET, to submit comments to EPA electronically is the Agency's preferred method for receiving comments. EPA officials should encourage members of the public to use EDOCKET to submit comments, because use of EDOCKET will facilitate quicker access to comments, for both the public and EPA staff.

In addition to carefully considering the public comments received, Agency officials traditionally include a summary of those comments, along with a summary of the Agency's responses to them, in the preamble of the Federal Register document or as a separate document that is made available in the docket. This traditional method, however, does not always ensure that those who have participated in a decision-making process are made aware of or have access to, the Agency's feedback. Therefore, in addition to the minimum statutory or regulatory requirements, Agency staff should explore, and use whenever feasible, other feedback methods such as publishing the response on a website or publishing it or a notice of its availability in widely read publications. Where resources permit, EPA should mail or e-mail a copy of the response or information on how to easily obtain the response to those who participated in the public involvement processes, those who submitted comments and others on the contact list. The Agency can use press briefings and news releases where the number of commenters is so large that individual contact is not practical (e.g., where mass mailings have been received in response to a proposed nationwide rule). In appropriate cases, direct feedback can be provided in public meetings; if so, the feedback should be documented (and care should be taken to avoid the appearance of re-opening the decision process). Appropriate feedback techniques will vary greatly depending upon the circumstances, but in all cases the goal is to ensure that those who contributed significantly to the process receive a response that tells them how EPA used their input.

#### **7. Evaluate public involvement activities.**

Goal: To evaluate the effectiveness of this Policy and of public involvement activities.

a. Actions: Agency officials should evaluate and measure, on a continuing basis, both the effectiveness of the Policy to improve public involvement in regulatory and non-regulatory processes, and the effectiveness of public involvement activities.

b. Methods: Agency officials should routinely use surveys, interviews, focus groups and other

tools to evaluate whether public involvement practices are performed appropriately and have the intended effects (subject to the Paperwork Reduction Act). Agency officials also should conduct periodic broad-based Agency-wide evaluations of the implementation of whether implementing this Policy improves the quality of public involvement and environmental decisions.

### ***Who manages the application of this Policy?***

Responsibilities Relating to the Public Involvement Policy:

**1. Administrator:** Provides leadership and direction to EPA headquarters and regions for all EPA public involvement programs.

**2. Assistant Administrators and Associate Administrators:** Provide leadership and direction for their managers and staff by:

- Ensuring that effective public involvement is a cornerstone of all decisions, activities, plans and pilots, and fully complies with all applicable legal requirements
- Encouraging effective public involvement by providing their staff and managers guidance, technical assistance, resources, training and incentives, as appropriate
- Encouraging broad-based stakeholder participation, including drawing on the expertise and networks available in OCIR, OPA and AIEO
- As appropriate, providing guidance, assistance and resources to regions to conduct public involvement, and to the affected public to ensure its input
- Evaluating the effectiveness of public involvement processes and taking action to improve these processes

**3. Regional Administrators:** Provide leadership for their program managers and staff by:

- Ensuring that effective public involvement is a cornerstone of all decisions, activities, plans and pilots, and fully complies with all applicable legal requirements
- Encouraging effective public involvement by providing staff guidance, technical assistance, resources, training and incentives, as appropriate
- Encouraging broad-based stakeholder participation, including drawing on the expertise and networks available through their public and intergovernmental affairs offices, AIEO and their regional tribal assistance programs
- Evaluating the effectiveness of public involvement processes and taking action to improve these processes
- Working with authorized, approved or delegated program participants to improve public involvement on those programs and EPA activities
- As appropriate, providing technical or financial assistance to individuals or organizations to support effective public involvement.

**4. Associate Administrator, Office of Public Affairs:** Develops and supports Agency public involvement activities by:

- a. Assisting EPA headquarters and regional programs to identify interested and affected members of the public
- b. Supporting the headquarters and regional programs in developing, reviewing and distributing outreach materials to inform and educate the public about Agency programs, issues and public involvement opportunities, including specialized distribution to targeted audiences.
- c. Encouraging, developing and supporting Agency strategic communications plans to include

effective public awareness and public involvement activities

**5. Associate Administrator, Office of Congressional and Intergovernmental Relations:**

Assists program offices by:

- a. Identifying state and local officials, both elected and appointed, to engage in public involvement activities
- b. Suggesting appropriate ways to reach these stakeholders

**6. Deputy Administrators, Deputy Regional Administrators, Office and Division Directors and other appropriate supervisors:** Ensure that they adequately support and recognize the public involvement efforts of their staff.

*Responsibilities for Implementing Public Involvement*

**Headquarters and regions:**

- ◆ Identify those activities, plans and decisions where public involvement is appropriate
- ◆ Include adequate time and resources for effective public involvement in plans, activities and policies
- ◆ Help each other implement public involvement activities
- ◆ Implement the public involvement and public information portions of approved program plans
- ◆ Evaluate the effectiveness and appropriateness of public involvement expenditures
- ◆ Evaluate and improve the effectiveness of public involvement activities
- ◆ Encourage the coordination of public involvement activities
- ◆ Consider funding demonstration projects that promote improved public involvement practices
- ◆ Provide technical assistance, as appropriate and available, for authorized EPA public involvement activities
- ◆ Provide public involvement funding, as appropriate and available, to appropriate outside interest groups and stakeholders in a manner that ensures efficient and cost effective public involvement process improvements
- ◆ Provide guidance, technical assistance and training, as appropriate, to support public involvement activities for authorized, approved and delegated programs of state, tribal and local governments
- ◆ Develop guidance and training to ensure that program office and regional staff and managers can perform public involvement activities effectively
- ◆ Provide incentives to Agency staff to ensure commitment to/competence in implementing public involvement
- ◆ Ensure that applicable legal requirements associated with public involvement are adhered to, such as the Federal Advisory Committee Act, the Paperwork Reduction Act, the Freedom of Information Act and the Privacy Act
- ◆

**Headquarters:**

- Seeks public involvement in decisions that modify or develop major national policies
- Incorporates public involvement when amending regulations, where appropriate
- Consults with OCIR to identify state and local officials, organizations and forums that may be appropriate for involvement in specific activities identified by this Policy

- Consult with AIEO to identify appropriate ways to engage tribes where tribal people and lands may be affected

**Regions:**

- ▲ Work closely with state, tribal and local governments to encourage, coordinate and improve public involvement activities in authorized, approved or delegated EPA programs and activities